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Delaware DUI Laws

State DUI Laws: Delaware

Legal Blood Alcohol Content Level: .08 Automatic Suspension of License for Failure of Blood Alcohol Test or Refusal to Submit to Test:

Yes Ignition Interlock Requirement upon Conviction: Yes Felony Conviction for Repeat Offenses: Yes

Delaware Code Annotated

21 Del. C. § 4177. Driving a vehicle while under the influence or with a prohibited alcohol content; evidence; arrests; and penalties

(a) No person shall drive a vehicle:

- (1) When the person is under the influence of alcohol;
- (2) When the person is under the influence of any drug;
- (3) When the person is under the influence of a combination of alcohol and any drug;
- (4) When the person's alcohol concentration is .08 or more; or

(5) When the person's alcohol concentration is, within 4 hours after the time of driving .08 or more. Notwithstanding any other provision of the law to the contrary, a person is guilty under this subsection, without regard to the person's alcohol concentration at the time of driving, if the person's alcohol concentration is, within 4 hours after the time of driving .08 or more and that alcohol concentration is the result of an amount of alcohol present in, or consumed by the person when that person was driving.

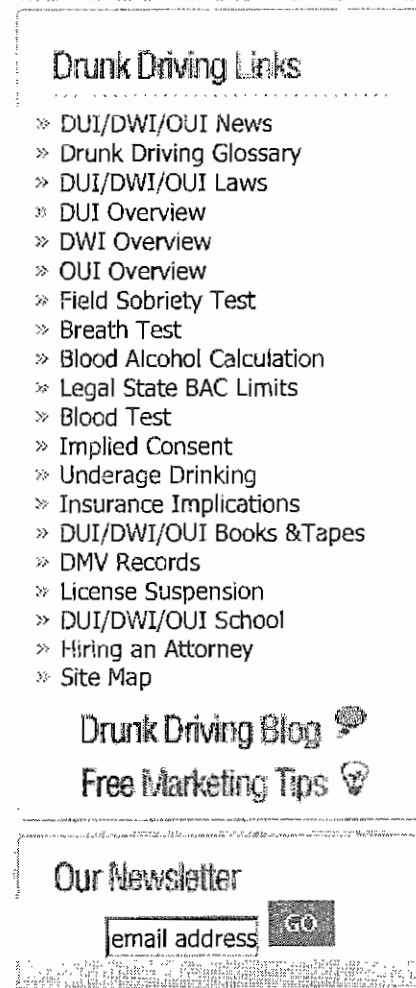
(b) In a prosecution for a violation of subsection (a) of this section:

(1) The fact that any person charged with violating this section is, or has been, legally entitled to use alcohol or a drug shall not constitute a defense.

(2) a. No person shall be guilty under subsection (a)(5) of this section when the person has not consumed alcohol prior to or during driving but has only consumed alcohol after the person has ceased driving and only such consumption after driving caused the person to have an alcohol concentration of .08 or more within 4 hours after the time of driving.

b. No person shall be guilty under subsection (a)(5) of this section when the person's alcohol concentration was .08 or more at the time of testing only as a result of the consumption of a sufficient quantity of alcohol that occurred after the person ceased driving and before any sampling which raised the person's alcohol concentration to .08 or more within 4 hours after the time of driving.

(3) The charging document may allege a violation of subsection (a) without specifying any particular subparagraph of subsection (a) and





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Delaware DUI LAW



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Delaware DUI arrests result in two separate cases. First, a Delaware DUI stop will trigger a case, where a DUI conviction carries fines, jail, mandatory educational programs, possible ignition interlock device being installed in your car, and more. However, a Delaware DUI also triggers a Delaware DUI DMV Administrative Hearing. Note that it is the DUI arrest *or her lawyer* who must request the hearing or else a DUI arrest will mean that Delaware privileges will be suspended.

NOTE: If you or someone you care about has been arrested for DUI in Delaware, it allows only fifteen (15) days to request a hearing with the Division of Motor Vehicles. **URGENT** that you contact a Delaware DUI defense attorney for a free consultation right protect your rights. Otherwise, your license will be automatically suspended following Delaware DUI arrest.

The Delaware Office of Highway Safety has declared targeting Delaware DUI cases a priority. Increased funding for enforcement, such as the Delaware DUI Checkpoint Strikeforce Program has resulted in increased DUI checkpoint activity in Delaware and the surrounding states. The goal of the DUI Checkpoint Strikeforce program has been to deter Delaware drivers by having a checkpoint out on every week between July 3rd and January 3rd. Sobriety Checkpoint Brochure (** pdf format).

Delaware DUI laws declare it illegal to drive while one's mental or physical abilities are impaired by alcohol (or other drugs). It is also illegal to violate Delaware's "per se" DUI laws. There are important differences between traditional Delaware DUI charge and the per se charge.

Delaware DUI's are traditionally prosecuted on an impairment theory, the officer's opinion that the driver was mentally or physically impaired by alcohol at the time he or she was driving. These DUI cases are proved by reference to driving patterns, field sobriety test performance, the driver's physical appearance, and chemical test results, if available. It is important to keep in mind that chemical test results are not needed to prove this type

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Delaware DUI case. The common law DUI charge is not dependent on particular alcohol level. The only focus for this Delaware DUI is impairm

Delaware DUI laws may also be violated by running afoul of the per se Per se laws declare a DUI to have occurred where one is driving with a Alcohol Level (BAC) that is .08% or higher. Delaware DUI per se laws concerned with impairment; these DUI laws are concerned only with b chemistry. This type of Delaware DUI charge may be brought regardle whether the driver is actually impaired or not, so long as the DUI arre supported by a BAC that exceeds the legal DUI limit.

Criminal Court Punishment

Delaware DUI, First Offense: Being convicted of violating Delaware's DUI laws in fines up to \$1,150.00 or imprisonment up to six months. In addition, following a DU conviction, a driver will be required to complete a DUI education course at his or her expense.

Delaware DUI, Second Offense (within 5 years of prior DUI conviction): For a s offense DUI within five years of a first offense, the Delaware DUI conviction means ja Normally, second offenders are sentenced to 60 days to 18 months in jail. If properly by a Delaware DUI defense attorney, the 60 days can amount to 6-7 days in custody balance suspended. Second offense fines may be as low as \$575.00 or as much as \$2 A Delaware DUI educational course will also be required.

Delaware DUI, Third Offense (within 5 years of 2 prior DUI convictions): A thir Delaware DUI offender will be subject to fines between \$1,000.00 and \$3,000.00 and imprisonment from one year to two years. The minimum one-year sentence of impris cannot be suspended until after the Defendant has served at least the first three mon These three months are not subject to any early release, furlough or reduction of any Delaware DUI educational program will also be required.

Delaware DUI, Fourth Offense DUI (occurring any time after three prior offenses charge becomes a more serious felony punishable by \$2,000.00 to \$6,000.00 fine and five years imprisonment. At least six months of any sentence of imprisonment must b and is not subject to suspension of any kind. A DUI educational program is also requir

An experienced Delaware DUI defense attorney will be able to help you with alternativ sentences, if available, as well as navigate the gauntlet of the Delaware DMV DUI Administrative license suspension.

Delaware DUI Administrative Driver's License Suspension

If you allow the temporary license to expire without requesting a hearing or if you req hearing and subsequently lose the administrative hearing at the Department of Motor your license will be revoked as follows:

- a. If you have taken the chemical test demanded by the police officer at the time

arrest, your revocation will be a period of three months for a first offense, one second offense and 18 months for more than two offenses.

- b. If you refused the chemical test at the time of your arrest, the revocation will be a period of one year for a first offense, 18 months for a second offense and 24 months for a third or greater offense.

In addition to the license revocation set forth above, you will also be required to take a Delaware DUI educational course and this course must be completed before your license is restored. In terms of early reinstatement of driving privileges after revocation by the Department of Motor Vehicles, you will be required to serve at least a six months period of license suspension.

If you or someone you care about has been charged with a DUI in Delaware after a Delaware drunk driving charge, please contact a lawyer right away to ensure that your rights are protected.

Under-21 DUI in Delaware

Zero Tolerance - If you are under 21 and you are arrested for a Delaware DUI with a blood alcohol count of .02 or higher, you will lose your license automatically. For the first offense it is for 2 months, second offense is 6 months, and third offense is 1 year. If you don't have a license you can be fined \$200 for the first offense and between \$400 and \$1,000 for any subsequent offenses.

Underage Consumption - If you are caught with alcohol (anywhere while in a car) and you are under 21, you will automatically lose your license for 6 months. If you do not have a license, you will be fined between \$100 and \$500.

DUI - Driving Under the Influence - If you drive with a blood alcohol level of more than .08%, you could face up to 1 year in prison and a fine of up to \$1,000 for the first offense. For the third and all subsequent offenses, DUI is a felony that means anywhere from 2 to 5 years in prison and a fine of not less than \$2,000.

In addition to the above penalties and costs, a Delaware DUI costs you \$143.75 to get your license back and \$490.00 to take an alcohol program. The bottom line is that it's not worth it.

If you or anyone you care about has been arrested for drunk driving, please do not delay; contact a qualified Delaware DUI defense lawyer for a free consultation by calling **1.800.DUI.LAWS**.

Please note: Laws change frequently and thus the information provided should not be relied upon as legal advice. To be certain, contact a criminal defense attorney for a legal assistance. 1800DUILAWS.com is not liable for any misinformation that users obtain from using this website.

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